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5 Attorneys for Plaintiff
Bartell Hotels, a California Limited Partnership,
6 dba Half Moon Anchorage
Attorney for Plaintiff
7

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10

11 BARTELL HOTELS, A California Limited
Partnership, dba HALF MOON ANCHORAGE,

12 Plaintiff,

13 v.

14 M/Y CLAIRE IRENE, a 1968 Owens Motor
15 Yacht of Approximately 40-Foot In Length And
11-Foot In Beam, Bearing California D.M.V.
16 Registration No. CF 8646 ED, AND ALL OF
HER ENGINES, TACKLE, ACCESSORIES,
17 EQUIPMENT, FURNISHINGS AND
APPURTENANCES, *in rem*,

18 Defendant.
19

Case No. 07 CV 2097 L (BLM)

IN ADMIRALTY

DECLARATION OF BRAD
OLIVER IN SUPPORT OF EX
PARTE APPLICATION FOR
ORDER AUTHORIZING
REMOVAL OF CONTAMINATED
WATER ABOARD DEFENDANT
VESSEL

F.R.C.P. Supplemental Admiralty
Rules C and E.

46 U.S.C. Sections 30101-31343

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21 I, Brad Oliver, declare under penalty of perjury under the laws of the United States and the
22 State of California as follows:

23 1. I am employed by Plaintiff Bartell Hotels as the Marina Manager for the marina
24 located on Shelter Island, San Diego, California, known as Half Moon Anchorage. I have personal
25 knowledge of the below matters, and if called to testify as to such matters I could and would
26 competently testify thereto.

27 2. After the arrest of the Defendant Vessel I conducted an inventory, as required by the
28 Court's Order Appointing Substitute Custodian. I believe it has literally been years since the

1 Defendant Vessel has received any maintenance whatever, and since the owner has been aboard.
2 This neglect was obvious throughout. After moving substantial refuse, including rotted food and
3 apparently broken boat parts, I discovered a large amount of oily bilge water in the bottom reaches of
4 the DEFENDANT VESSEL.

5 3. I have extensive experience in the maritime arena, including experience in the
6 maintenance, operation, troubleshooting and ordinary repairs to vessels ranging from large cruising
7 sailboats to smaller racing vessels. I served as the Dock Master at San Diego Yacht Club, before
8 assuming his duties for PLAINTIFF. Over the years, I have had occasion to dewater at least 100
9 vessels and I have assisted in the containment of spills from vessels.

10 4. After closely examining the DEFENDANT VESSEL, a wooden vessel (with
11 fiberglass overlay) believed to have been built in 1968, I have concluded that she is unquestionably
12 in unseaworthy condition, and that due to dry rot in her hull and the fact she has received no apparent
13 maintenance in several years, it is at least conceivable hull fasteners or perhaps a "through hull" (an
14 opening in the hull used to supply water to the engines, to discharge water, etc.) could unexpectedly
15 and suddenly fail and she could develop a leak sink or partially sink.

16 5. After consulting with Capt. Tom Folkesson, the owner of Oceanview Marine
17 Services, I have concluded that even after I removed dozens of gallons of water, there could be
18 approximately 400 gallons of water remaining aboard the DEFENDANT VESSEL, though it is
19 difficult to calculate, due to the fact that the shape of the hull is not uniform and I am not in
20 possession of hull drawings or plans for the DEFENDANT VESSEL.

21 6. I am concerned that if the DEFENDANT VESSEL (which is in apparently very poor
22 condition) were to sink, it could result in water pollution and clean up costs could amount to a
23 minimum of tens of thousands of dollars, and based on what counsel has advised, possibly over one
24 million dollars. Although the DEFENDANT VESSEL does not appear to be actively taking on
25 water, I believe it would be imprudent not to remove the contaminated water, or as much as possible.
26 from the DEFENDANT VESSEL.

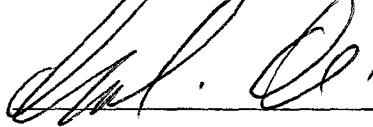
27 7. Capt. Folkesson has informed me that he has dewatered several hundred vessels over
28 the course of approximately 17 years, that he has specialized "HAZWOPER" training in the handling

1 and disposal of hazardous materials, and that he is authorized by the County of San Diego to engage
2 in the local handling and disposal of toxic materials.

3 8. Capt. Folkesson has provided an estimate in the amount of \$3,177.84 for him and an
4 assistant to remove and dispose of an estimated 400 gallons of contaminated water from the
5 DEFENDANT VESSEL. A true and correct copy of this estimate is attached hereto as Exhibit A.

6 9. To confirm he is authorized to handle hazardous materials, Capt. Folkesson provided
7 me with a copy of the Permit issued by the County of San Diego Department of Environmental
8 Health, a true and correct copy of which is hereto attached as Exhibit B.

9 Executed this 6 day of March, 2008 at San Diego, California.

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12 Brad Oliver, Marina Manager
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OCEANVIEW MARINE SERVICES

2330 SHELTER ISLAND DR #211-B
SAN DIEGO, CA 92106

Estimate

Date	Estimate #
3/5/2008	48

Name / Address
HALF MOON MARINA FAX: 619-568-3168

			Project
Description	Qty	Rate	Total
OILY BILGE WATER REMOVAL-ESTIMATE ONLY OF 400 GALLONS, CANNOT ACCURATELY DETERMINE UNTIL JOB IS COMPLETE. MINIMUM 4 HOURS, FOR TWO WORKERS AND 40' CRAFT.	4	180.00	720.00
HAZMAT ADMINISTRATION-TAG DRUMS, LOADING FOR TRANSPORT AND MITIGATING TRANSPORTATION MANIFESTS.	2	65.00	130.00
55 GAL DRUM(S) WITH BUNGS	8	55.00	440.00T
DISPOSAL OF OILY BILGE WATER	8	220.00	1,760.00
POLYSORB PADS	12	1.25	15.00T
DISPOSABLE GLOVES-PR	12	1.00	12.00T
MISCELLANEOUS MATERIALS, PLASTIC BAGS, RESPIRATOR CARTRIDGES(POSSIBLE AIRBORNE TOXINS FROM ROTTING FOOD STORES AND MILDEW), TYVEK SUITS, ETC...	1	60.00	60.00T
NOTES: CANNOT GUARANTEE 100% REMOVAL DUE TO ACCESS LIMITATIONS CREATED BY BUT NOT LIMITED TO BULKHEADS, MACHINERY AND TANKAGE RESTRICTIONS.		0.00	
X _____ Acceptance of terms and conditions/Date Authorizing owner/agent signature to proceed.		0.00	
X _____ Initial received copy.			
SALES TAX		7.75%	40.84
THANK YOU FOR YOUR BUSINESS! WE ACCEPT CASH, CHECK, VISA and MASTERCARD.			Total \$3,177.84

EXHIBIT A

OCT

DEPARTMENT OF ENVIRONMENTAL HEALTH
UNIFIED PROGRAM FACILITY PERMIT

2008

P.O. BOX 129261, SAN DIEGO, CA 92112-9261 1-800-253-9933/619-338-2222 FAX 619-338-2377 www.sdcdeh.org

OWNER/OPERATOR NAME: TOM FOLKESSON
FACILITY NAME: OCEANVIEW MARINE SERVICE
FACILITY LOCATED AT: 2330 SHELTER ISLAND DR San Diego, CA 92106

Mailing Address
OCEANVIEW MARINE SERVICE
TOM FOLKESSON

2330 SHELTER ISLAND DR #211B
San Diego CA 92106

PERMIT: HK18-203513



Gary Erbeck
DIRECTOR, DEH

PID: 560013

*** ATTENTION ***

THIS IS AN OFFICIAL DOCUMENT

- DO NOT DISCARD -

THIS PERMIT DOES NOT EXCUSE ANY OWNER OR OPERATOR FROM COMPLYING WITH ALL APPLICABLE
FEDERAL, STATE, COUNTY OR LOCAL LAWS, ORDINANCES OR REGULATIONS. THE OWNER OR
OPERATOR IS REQUIRED TO DETERMINE IF ANOTHER PERMIT OR APPROVAL FROM ANY OTHER
AGENCY OR DEPARTMENT IS NECESSARY. THE COUNTY, BY ISSUING THIS PERMIT, DOES NOT
RELINQUISH ITS RIGHT TO ENFORCE ANY VIOLATION OF LAW.

Issue Date below is the date of initial Permit billing.

POST IN CONSPICUOUS PLACE OR KEEP ON PERSON

CITY OF SAN DIEGO * CERTIFICATE OF PAYMENT OF BUSINESS TAX

Certificate Number: B2001002293

Business Name: OCEANVIEW MARINE SERVICES/OCEANVIEW YACHT I
Business Owner: TOM FOLKESSON
Business Address: 2330 SHELTER ISLAND DR #211B
SAN DIEGO CA 92106-3128

OCEANVIEW MARINE SERVICES/OCEANVIEW YACHT REFINISH
PO BOX 6561
SAN DIEGO, CA 92166-0561

Business Type: ALL OTH PROF, SCIENTIFIC & TECHNICAL SERVICES
Effective Date: 04/01/2007
Expiration Date: 03/31/2008

EXHIBIT **B**